

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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Clarita Lehman,

Plaintiff,

v.

Director & Chief Executive Officer of the
 Defense Commerce Agency c/o William F.
 Moore, et al.,

Defendant.

Case No. 2:22-cv-00939-RFB-BNW

Order

Before the Court is Defendants' motion to reschedule the early neutral evaluation until thirty days after the Court issues an order deciding Defendants' pending motion to dismiss. (ECF No. 19). The undersigned has been assigned to this case as a settlement judge for purposes of presiding over an early neutral evaluation. (ECF No. 18). An early neutral evaluation is generally set upon a defendant's first appearance in a case. *See* Local Rule 16-6(d). Nonetheless, the evaluating magistrate judge also has wide discretion in deciding whether to exempt a case from the early neutral evaluation process. Local Rule 16-6(c).

In this case, Defendants move to dismiss on the ground that Plaintiff has failed to exhaust her administrative remedies before bringing her discrimination complaint against her employer. (ECF No. 7). As a result, Defendants' counsel asserts that they would be unlikely to receive authorization to resolve the case unless and until the motion to dismiss is resolved. (ECF No. 19 at 3). It is not clear that, given the procedural posture of this case, holding an early neutral evaluation would be fruitful. Given the circumstances, the Court grants Defendants' motion to continue the early neutral evaluation. (ECF No. 19). In the event Defendants' motion to dismiss is denied in whole or part, the parties must file a stipulation to set the early neutral evaluation that provides five dates on which all required participants are available. The parties have thirty days from the date of the Court's decision on the motion to dismiss to file this stipulation.

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2 **IT IS THEREFORE ORDERED** that Defendants' motion to reschedule the early
3 neutral evaluation session (ECF No. 19) is **GRANTED**.

4 **IT IS FURTHER ORDERED** that in the event the Court denies Defendants' motion in
5 whole or in part, thirty days after the Court issues its ruling, the parties must file a stipulation to
6 set the early neutral evaluation that provides five dates on which all required participants are
7 available.

8 **IT IS FURTHER ORDERED** that the Clerk of Court is kindly directed to mail a copy of
9 this order to Plaintiff.

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11 DATED: December 19, 2022

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14 DANIEL J. ALBREGTS
15 UNITED STATES MAGISTRATE JUDGE
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